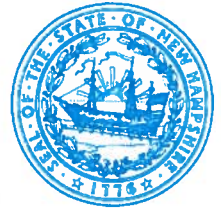




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Clark B. Freise, Assistant Commissioner

April 11, 2017

The Honorable Kevin Avard, Chair
Senate Energy and Natural Resources Committee
State House, Room 103
Concord, New Hampshire 03301

RE: HB 380, An Act relative to the oil discharge and disposal cleanup fund

Dear Chair Avard and Members of the Committee:

Thank you for the opportunity to testify on HB 380. This bill would clarify that the Oil Discharge and Disposal Cleanup Fund established under RSA 146-D is a nonlapsing fund, clarify fund eligibility requirements, and increase the reimbursement limit for the upgrade of home heating oil tanks for low-income homeowners. The New Hampshire Department of Environmental Services (NHDES) supports this bill.

During the 2015 session, RSA 146-D was amended by the passage of HB 664. This complex legislation merged the existing four separate petroleum reimbursement funds into the single Oil Discharge and Disposal Cleanup Fund (Fund). In reviewing the amended legislation, NHDES identified two issues that warranted clarification. HB 380 addresses these issues.

The first clarification is the addition of the term “nonlapsing” to the fund establishment section contained in RSA 146-D:3. The Fund and its original component funds, by their statutory construction, were clearly intended to be administered over a period of years to address longstanding and continuing petroleum contamination problems in order to protect New Hampshire’s groundwater and drinking water. Indeed, they have been managed as nonlapsing funds since their inception. Adding the term “nonlapsing” to RSA 146-D:3 would serve to remove any ambiguity regarding the Fund’s status.

The second clarification is the limitation of the eligibility requirements for potential contamination source properties. As currently written, RSA 146-D could be interpreted as extending funding eligibility to any property impacted with contaminants commonly associated with petroleum discharges. As established originally in RSA 146-G (Gasoline Remediation and Elimination of Ethers) the fund was available for potential contamination source properties contaminated by gasoline ethers only (most commonly MtBE). When the four reimbursement

www.des.nh.gov

PO Box 95, 29 Hazen Drive, Concord, NH 03302-0095
Telephone: (603) 271-3503 TDD Access: Relay NH 1-800-735-2964


The Honorable Kevin Avar, Chair
Senate Energy and Natural Resources Committee
April 11, 2017
Page 2

funds were consolidated, this eligibility criterion was inadvertently omitted. HB 380 corrects this omission, thereby restoring the original intent.

Finally, HB 380 increases the not-to-exceed reimbursement limit for the "SAFETANK" program from \$1,500 to \$2,250. This program provides financial assistance to eligible low-income homeowners for the replacement of substandard heating oil tanks that pose a risk of release. The current \$1,500 ceiling was originally established in 2004, and no longer covers the typical cost for the replacement of a home heating oil tank. The average project cost is now approximately \$2,100, and recent time and materials invoices submitted by contractors have ranged as high as \$2,400. The resulting balance owed by the homeowner is often more than they can afford and may preclude them from upgrading a high-risk tank. Further, in some regions of the state it is becoming difficult for low-income homeowners to find contractors who are willing to do tank upgrades under the program. By adjusting the reimbursable limit to more closely reflect current market rates, HB 380 will ensure that the SAFETANK program remains viable and continues preventing heating oil releases.

In summary, NHDES supports HB 380 because it makes important clarifications to RSA-146:D and adjusts the reimbursement rate for a critical spill prevention program. Passage of the bill will help to ensure that the Oil Discharge and Disposal Cleanup Fund continues to provide vital support for the cleanup and protection of New Hampshire's groundwater and drinking water.

Thank you again for the opportunity to comment on HB 380. If you have questions or need additional information, please feel free to contact either Worthen Muzzey, Supervisor Fund Management Section (Worthen.Muzzey@des.nh.gov, 271-2570) or Michael Wimsatt, Director of the Waste Management Division (Michael.Wimsatt@des.nh.gov, 271-2905).

Sincerely,

Clark B. Freise
Assistant Commissioner

cc: Sponsors of HB 380: Rep. Christensen, Rep. Ebel, Sen. Woodburn